



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 4, 1993

Honorable Carl E. Lewis
County Attorney
Nueces County Courthouse
901 Leopard, Room 206
Corpus Christi, Texas 78401-3680

Letter Opinion No. 93-1

Re: Whether a port commissioner's ownership of a company that hires the services of pilots as an agent for ships calling at the port disqualifies him from service on the pilot board (RQ-380)

Dear Mr. Lewis:

Your predecessor in office asked a question regarding a commissioner of a pilot board established under article 8248, V.T.C.S.¹ Article 8248 provides that the navigation and canal commissioners of a navigation district constitute a pilot board and shall be commissioners of the pilot board for their terms of office as navigation and canal commissioners. Article 8248 also states as follows:

No person who is engaged directly or indirectly in the towing business, or in any pilot boat, or in any other business affected by or connected with the performance of his duties as a commissioner of pilots shall be a member of such pilot board.

Your question concerns whether this section prevents a port commissioner of the Port of Corpus Christi Authority² who is the owner of a shipping company from serving as a member of the pilot board.³ We conclude that it does.

¹For the purposes of this opinion, we accept your statement that the particular pilot board about which you inquire was established under article 8248.

²In 1981 the name of the Nueces County Navigation District No. 1 was changed to the Port of Corpus Christi Authority of Nueces County, Texas. Accordingly, the board became known as the port commission and the board members as port commissioners. The commission is, however, still a navigation and canal commission governed by the statutes applicable to navigation and canal commissions.

³Navigation and canal commissioners are not automatically qualified to serve on pilot boards simply by virtue of being navigation and canal commissioners. If navigation and canal commissioners were automatically qualified to serve on pilot boards, eligibility to serve on the pilot board would be a requirement for serving as a navigation and canal commissioner and the conflict-of-interest provisions in article 8248 would be meaningless. At least one district court in Texas has concluded that a person does not have to be eligible to serve on the pilot board to be eligible to serve as a navigation and canal commissioner. See *Brownsville Navigation Dist. v. Foust*, No. 10-86-4148-C (Dist. Ct. of Cameron County, 197th Judicial Dist. of Texas, Nov. 3, 1986). Furthermore, a cardinal rule of

You indicate that the company owned by the commissioner "acting as a steamship agent for ships calling in the Port of Corpus Christi, hires the services of pilots to provide pilotage for the ships entering and leaving the Port of Corpus Christi." Although the company retains the services of the pilots strictly as an agent, the company is responsible for paying any pilot the principal shipping company fails to pay. *See* V.T.C.S. art. 8256.

The pilot boards established under article 8248 have exclusive jurisdiction over the pilotage of boats between the Gulf of Mexico and the ports included within the navigation district. V.T.C.S. art. 8249. This jurisdiction includes the duty to examine, license, regulate, suspend, and dismiss branch pilots and deputy pilots for the waterways included within the navigation district. V.T.C.S. arts. 8250 - 8252. This jurisdiction also includes the duty to fix rates of pilotage charged by the pilots operating within the navigation district. V.T.C.S. arts. 8252, 8255.

The plain language of article 8248 indicates that the article prevents this commissioner from serving on the pilot board because the functions of the pilot board will affect the business of the commissioner's company. The licensing and regulation functions will affect the availability and competence of the pilots the company seeks to hire. The rate-setting function will affect the cost of the services the company seeks to procure for its clients. In addition, and perhaps more importantly, the rate-setting function will affect the amount the company has to pay a pilot if one of its clients refuses to pay.

The policy behind article 8248, and other similar conflict-of-interest provisions, also indicates that the commissioner should be disqualified from serving on the pilot board. *See, e.g.,* Local Gov't Code §§ 171.003 - .004. Conflict-of-interest provisions are designed to ensure that public officials act unselfishly in the public interest by removing any temptation to serve individual, personal interests. Attorney General Opinion M-1096 (1972) at 2. This goal would not be met if the commissioner involved here were permitted to serve on the pilot board. For example, in setting rates of pilotage charged by the pilots, the commissioner would have a personal interest in setting the rates as low as possible.

(footnote continued)

statutory construction is that every part of a statute must be given effect. Therefore, a construction should not be adopted, if it can be avoided, that will render any part of a statute meaningless. *City of Deer Park v. State*, 259 S.W.2d 284, 287 (Tex. Civ. App.—Waco 1953), *rev'd on other grounds*, 275 S.W.2d 77 (Tex. 1954).